

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN THE MATTER OF:	*	CHAPTER 13
	*	
ROSALIND DEVORA BROWN,	*	CASE NO. 04-03521-5-JRL
	*	
Debtor.	*	
	*	

Property Address: 2 Orion Circle, Rougemont, North Carolina 27572

MOTION FOR RELIEF FROM AUTOMATIC STAY

COMES NOW the United States of America, by and through the United States Attorney for the Eastern District of North Carolina, on behalf of the U.S. Department of Agriculture, on behalf of its agency, Rural Housing Service, formerly known as the Farmers Home Administration, USDA (hereinafter "the Government"), and respectfully moves this Court for relief from the automatic stay in order for the Government to institute foreclosure of its interests in the real property identified herein. In support of this motion the Government says:

1. This motion is made pursuant to Rules 4001 and 9014 of the Federal Bankruptcy Rules; whereby the government seeks to lift the automatic stay in order to proceed with foreclosure of its interests in real property as identified and defined in certain security instruments described hereinafter.
2. The debtor is a resident of Rougemont, North Carolina, at 2 Orion Circle.
3. The Government is a priority creditor of the debtor as a result of a loan made through its agency, Rural Housing Service, successor to the Farmers Home Administration, as described

on the statement of account attached as Exhibit A, and evidenced by a promissory note attached as Exhibit B.

4. The government is the owner and holder of a promissory note which is due and owing in the aggregate principal amount of \$116,748.98 plus interest accrued of \$44,571.18 as of December 28, 2009, and accruing thereafter at the daily rate of \$23.45.

5. In order to secure the aforesaid promissory note, the government holds a real estate deed of trust covering real property located in Durham County, North Carolina, more fully described therein. Said deed of trust was executed and delivered by Rosalind Brown, and recorded September 23, 1996, in the Durham County Registry at Book 2238, Pages 329-332. A copy of the deed of trust is attached hereto and made a part hereof by reference as Exhibit C.

6. The debtor is in default of the terms of the promissory note. The post-petition arrearage outside the plan totals \$40,571.10. The debtor's monthly payment outside the plan is \$1,069.51.

7. The debtor filed a Chapter 13 petition on September 28, 2004. The government is prevented from enforcing its rights under the aforesaid promissory note and deed of trust except and until this court grants the requested relief.

8. The continuing failure of the debtor to satisfy the terms of the promissory note and to remain current on the outstanding payments, deprives the government adequate protection of its interests therein.

WHEREFORE, the Movant prays that the Court:

1. That it be granted relief from the automatic stay herein and that it be allowed to pursue in law or equity its claim against the debtor and the described real property.

2. For such other and further relief as the Court may deem just and appropriate.

This the 10th day of February, 2010.

GEORGE E. B. HOLDING
UNITED STATES ATTORNEY


By: /s/ S. Katherine Burnette

S. KATHERINE BURNETTE
Assistant United States Attorney
Eastern District of North Carolina
800 Federal Building
310 New Bern Avenue
Raleigh, North Carolina 27601-1461
Telephone: (919) 856-4053
FAX: (919) 856-4821

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN THE MATTER OF:	*	CHAPTER 13
	*	
ROSALIND DEVORA BROWN,	*	CASE NO. 04-03521-5-JRL
	*	
Debtor.	*	
	*	

Property Address: 2 Orion Circle, Rougemont, North Carolina 27572

NOTICE OF MOTION

**TO: DEBTOR, ATTORNEY FOR DEBTOR, TRUSTEE
AND OTHER PARTIES IN INTEREST**

NOTICE IS HEREBY GIVEN of the motion, for an order granting lifting the automatic stay, filed simultaneously herewith by the United States Attorney in the above-captioned case; and

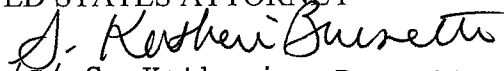
FURTHER NOTICE IS HEREBY GIVEN that this motion may be allowed provided no response and request for a hearing is made by the debtors or other parties in interest, in writing, to the clerk of this court within fourteen days from the date of this notice; if no request for hearing is timely filed, of the court may rule on the motion and response thereto ex parte without further notice;

and

FURTHER NOTICE IS HEREBY GIVEN that if a response and a request for a hearing is filed by the debtors or other parties in interest named herein in writing by the time indicated, a hearing will be conducted on the motion and response thereto at a date, time, and place to be later set by the court, and all interested parties will be notified accordingly.

DATE OF NOTICE: February 10, 2010

GEORGE E. B. HOLDING
UNITED STATES ATTORNEY

By: 
S. Katherine Burnette
S. KATHERINE BURNETTE

Assistant United States Attorney
Eastern District of North Carolina
800 Federal Building
310 New Bern Avenue
Raleigh, NC 27601-1461
Telephone: (919) 856-4053
FAX: (919) 856-4821

Raleigh, North Carolina 27601-1461

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN THE MATTER OF:	*	CHAPTER 13
	*	
ROSALIND DEVORA BROWN,	*	CASE NO. 04-03521-5-JRL
	*	
Debtor.	*	
	*	

Property Address: 2 Orion Circle, Rougemont, North Carolina 27572

CERTIFICATE OF SERVICE

I certify that I have served a copy of the Motion to Lift Stay and Notice of Motion by first class U.S. Mail on:

Debtor:

Rosalind Devora Brown
2 Orion Circle
Rougemont, NC 27572

Debtor's Counsel:

John T. Orcutt, Esq.
6616-203 Six Forks Road
Raleigh, NC 27615

Trustee:

John F. Logan
P. O. Box 61039
Raleigh, NC 27661-1039

This the 10th day of February, 2010.

GEORGE E. B. HOLDING
UNITED STATES ATTORNEY

S. Katherine Burnette
By: /s/ S. Katherine Burnette

S. KATHERINE BURNETTE
Assistant United States Attorney
Eastern District of North Carolina
800 Federal Building

310 New Bern Avenue
Raleigh, North Carolina 27601-1461
Telephone: (919) 856-4053
FAX: (919) 856-4821